IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO: 4643 of 2004

Between:

Smt. N. Surekha W/o. Late. N. Rajendra Babu,
R/o. Flat No.204, H.No.15-169, N.B.R. Extension Complex,
N.B.R. Colony, Meerpet, Saroornagar, Ranga Reddy District,

Hyderabad.

... PETITIONER

AND

1 The Hon'ble High Court of Andhra Pradesh, High Court Buildings, Hyderabad. Rep. by the Registrar (Admn)
2 The Metropolitian Sessions Judge, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a WRIT OF MANDAMUS or other appropriate order or direction in the nature of a writ directing the second respondent to appoint the petitioner in the post of a Junior Assistant or any other equivalent post in his unit after declaring the order bearing Dis.No.791/MSJ/HYD/2004 dated 24-02-2004 passed by the 2nd respondent as arbitrary, discriminatory and violative of Articles 14, 16 and 21 of the Constitution of India and contrary to the principles of natural justice and rules relating to appointment on compassionate grounds in the interest of justice and

Counsel for the Petitioner: MR.B.NALIN KUMAR

Counsel for the Respondents: MR.C.V.NAGARJUNA REDDY

The Court made the following Order:

ORDER: (Per Hon'ble The Chief Justice)

Petitioner's challenge is to the order dated 24-02-2004 passed by the second respondent as arbitrary, discriminatory and violative of Articles 14, 16 and 21 of the Constitution of India. Petitioner's husband, who was working as Junior Assistant in the Court of the XVI Metropolitan Magistrate, Hyderabad, expired on 18-10-2001 while in service. Petitioner applied for compassionate appointment claiming that she passed S.S.C examination in 1985. By virtue of the impugned order, petitioner was offered the post of Attender since she possessed the qualification for such appointment on compassionate ground. Petitioner's case is that she ought to have been offered the post of L.D.C. with option to her to obtain the requisite qualification for the said post within a period of three years as per the Rules in force and since it was not done so, petitioner had questioned the action of second respondent.

2. The second respondent in the counter affidavit stated that there was no clear vacancy of L.D.C. available and at the relevant time the petitioner possessed only X class and the minimum qualification needed to be appointed as L.D.C. is Intermediate. As such, the petitioner could not be accommodated in the post of LDC, but was offered the post of Attender, which post was also created as supernumerary post to accommodate her.

3. As a matter of fact, compassionate appointment cannot be sought as of right. It is meant to tide over the financial problem on the immediate death of the bread-earner of the family. The petitioner as of right cannot claim LDC since on that day, she was not possessing requisite qualification for the said post. As such,

there is nothing wrong in the impugned order. Writ Petition is thus dismissed.

4. Learned counsel for the petitioner states that pursuant to the order impugned in the writ petition, the petitioner did not join the duty and the joining time is already over. We make it clear that the dismissal of this Writ Petition will not come in the way of the petitioner in submitting her joining report to the second respondent pursuant to the order impugned in the Writ Petition, within a period of thirty days from the date of receipt of writ order from the Court. If she joins within said 30 days, the respondents will accept the joining report of the petitioner in the post of Attender.

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DEVINDER GUPTA, CJ

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G. ROHINI, J

July 15, 2004

MRR/BSC

Copy to:

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2 The Metropolitian Sessions Judge, Hyderabad.

3 Two C.D. Copies.